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[Proposed] Lead Counsel for Plaintiff and Class

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 LOI TRAN, INDIVIDUALLY AND) No. 2:16-cv-00602-MWF-SS
11 ON BEHALF OF ALL OTHERS)
12 SIMILARLY SITUATED,)
13 Plaintiff,)
14 vs.)
15 THIRD AVENUE MANAGEMENT)
16 LLC; THIRD AVENUE TRUST;)
17 M.J. WHITMAN LLC; MARTIN J.)
18 WHITMAN; DAVID M. BARSE;)
19 JACK W. ABER; WILLIAM E.)
20 CHAPMAN, II; LUCINDA)
21 FRANKS; EDWARD J. KAIER;)
22 MARVIN MOSER; ERIC)
23 RAKOWSKI; MARTIN SHUBIK;)
24 CHARLES C. WALDEN; VINCENT)
25 J. DUGAN; W. JAMES HALL III;)
26 MICHAEL BUONO; THOMAS)
27 LAPOINTE; NATHANIEL KIRK;)
EDWIN TAI; and JOSEPH)
ZALEWSKI,)
Defendants.)
RESPONSE OF THE THIRD)
AVENUE INVESTOR GROUP)
TO COMPETING LEAD)
PLAINTIFF MOTIONS)
CLASS ACTION)
JUDGE: Hon. Michael W.)
Fitzgerald)
Hearing Date: May 2, 2016)
Time: 10:00 a.m.)
CTRM: 1600 – Sixteenth Floor)
(Spring Street))

1	INTER-MARKETING GROUP USA,	)	No. 2:16-cv-00736-MWF-SS
2	INC., INDIVIDUALLY AND ON))
3	BEHALF OF ALL OTHERS))
4	SIMILARLY SITUATED,	)	<u>CLASS ACTION</u>
5	Plaintiff,	)	JUDGE: Hon. Michael W.
6	vs.	)	Fitzgerald
7	THIRD AVENUE TRUST, THIRD	)	Hearing Date: May 2, 2016
8	AVENUE MANAGEMENT LLC, M.J.	)	Time: 10:00 a.m.
9	WHITMAN LLC, MARTIN J.	)	CTRM: 1600 – Sixteenth Floor
10	WHITMAN, DAVID M. BARSE,	)	(Spring Street)
11	VINCENT J. DUGAN, WILLIAM E.)	
12	CHAPMAN, II, LUCINDA FRANKS,)	
13	EDWARD J. KAIER, ERIC)	
14	RAKOWSKI, MARTIN SHUBIK,)	
15	CHARLES C. WALDEN and)	
16	PATRICK REINKEMEYER,)	
17	Defendants.)	
18)	
19)	
20)	
21)	
22)	
23)	
24)	
25)	
26)	
27)	

1	SCOTT MATTHEWS,	)	No. 2:16-cv-00770-MWF-SS
2	INDIVIDUALLY AND ON BEHALF))
3	OF ALL OTHERS SIMILARLY))
4	SITUATED,	)	<u>CLASS ACTION</u>
5	Plaintiff,	)	JUDGE: Hon. Michael W.
6	vs.	)	Fitzgerald
7	THIRD AVENUE MANAGEMENT	)	Hearing Date: May 2, 2016
8	LLC; THIRD AVENUE TRUST; M.J.	)	Time: 10:00 a.m.
9	WHITMAN LLC; MARTIN J.	)	CTRM: 1600 – Sixteenth Floor
10	WHITMAN; DAVID M. BARSE;	)	(Spring Street)
11	JACK W. ABER; WILLIAM E.))
12	CHAPMAN, II; LUCINDA FRANKS;))
13	EDWARD J. KAIER; MARVIN))
14	MOSER; ERIC RAKOWSKI;))
15	MARTIN SHUBIK; CHARLES C.))
16	WALDEN; VINCENT J. DUGAN; W.))
17	JAMES HALL III; MICHAEL))
18	BUONO; THOMAS LAPOINTE;))
19	NATHANIEL KIRK; EDWIN TAI;))
20	and JOSEPH ZALEWSKI,))
21	Defendants.))
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25))
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1	SUPRABHA BHAT,)	No. 2:16-cv-00904-MWF-SS
2	INDIVIDUALLY AND ON BEHALF))
3	OF ALL OTHERS SIMILARLY))
4	SITUATED,	)	<u>CLASS ACTION</u>
5		)	JUDGE: Hon. Michael W.
6	Plaintiff,	)	Fitzgerald
7		)	Hearing Date: May 2, 2016
8	vs.	)	Time: 10:00 a.m.
9	THIRD AVENUE MANAGEMENT	)	CTRM: 1600 – Sixteenth Floor
10	LLC, THIRD AVENUE TRUST, M.J.	)	(Spring Street)
11	WHITMAN LLC, MARTIN J.)	
12	WHITMAN, DAVID M. BARSE,)	
13	JACK W. ABER, WILLIAM E.)	
14	CHAPMAN II, LUCINDA FRANKS,)	
15	EDWARD J. KAIER, MARVIN)	
16	MOSER, ERIC RAKOWSKI,)	
17	MARTIN SHUBIK, CHARLES C.)	
18	WALDEN, VINCENT J. DUGAN, W.)	
19	JAMES HALL III, MICHAEL)	
20	BUONO, THOMAS LAPOINTE,)	
21	NATHANIEL KIRK, EDWIN TAI,)	
22	and JOSEPH KALEWSKI,)	
23)	
24	Defendants.)	
25)	

Joseph Paulin, Frances Taylor, Kirk Taylor, and Scott McLatchy (collectively, the “Third Avenue Investor Group”) submits this response to the competing lead plaintiff motions.

Of the remaining movants,¹ only the Third Avenue Investor Group has members, Kirk Taylor and Joseph Paulin, that purchased Third Avenue Focused Credit Investor Fund (“TFCVX”) shares(Dkt. # 32-3). Therefore, the Court should

¹ The Pomerantz law firm’s lead plaintiff motion was withdrawn earlier today. Dkt. # 47-48, 50.

1 appoint either Mr. Taylor and/or Mr. Paulin as lead plaintiff for the purchasers of
 2 TFCVX as they are the only movants that are before the Court that have standing
 3 to pursue such claims. While some courts have held that a lead plaintiff need not
 4 have standing to pursue every claim, the failure to address these concerns have led
 5 to adverse consequences. *See In re Zynga Inc. Sec. Litig.*, 2014 WL 721948, at * 3
 6 (N.D. Cal. Feb. 25, 2014) (dismissing claim because plaintiffs based on false
 7 offering document as plaintiff did not purchase shares in the offering).
 8 Additionally, the appointment of separate lead plaintiffs will eliminate the
 9 appearance of any potential conflict between purchasers of the TFCVX and the
 10 institutional shares, TFCIX. *See Friedman v. Quest Energy Partners LP*, 261
 11 F.R.D. 607, 610-11 (W.D. Okla. 2009) (finding that separate lead plaintiffs were
 12 required for purchasers of different securities against the same defendants).

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14 Dated: April 11, 2016

Respectfully submitted,

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THE ROSEN LAW FIRM, P.A.

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/s/ Laurence M. Rosen, Esq.

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[Proposed] Lead Counsel for Plaintiff and
 Class

CERTIFICATE OF SERVICE

I, Laurence M. Rosen, hereby declare under penalty of perjury as follows:
I am the managing attorney of The Rosen Law Firm, P.A., with offices at 355
South Grand Avenue, Suite 2450, Los Angeles, CA 90071. I am over the age of
eighteen.

On April 11, 2016, I electronically filed the following **RESPONSE OF THE THIRD AVENUE INVESTOR GROUP TO COMPETING LEAD PLAINTIFF MOTIONS** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

Executed on April 11, 2016.

/s/ Laurence M. Rosen

Laurence M. Rosen